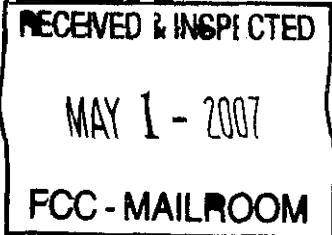


DOCKET FILE COPY ORIGINAL



Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Pay Telephone	)	CC Docket No. 96-128
Reclassification and Compensation	)	
Provisions of the Telecommunications	)	
Act of 1996	)	
	)	
Petition for Rulemaking or, in the	)	DA 03-4027
Alternative, Petition to Address Referral	)	
Issues in Pending Rulemaking	)	

COMMENTS OF THE SOUTHERN PUBLIC COMMUNICATIONS ASSOCIATION

My name is David S. Cotton. I am the President and Chairman of the Board of the Southern Public Communications Association (SPCA). The SPCA is comprised of and represents 58 payphone & inmate phone companies from across the nation. Our web address is [www.southempublic.org](http://www.southempublic.org).

The SPCA, a voluntary organization, ~~was~~ created to assist, advise and aid SPCA members in legal and regulatory affairs, both in State & Federal venues. The SPCA works hand in hand with law enforcement officials to help the industry provide for and meet its telecommunications needs. The SPCA mission is to assist its members by informing them of any new rules and regulatory regulations that may affect their business. The SPCA supports fair and equitable rates for all calls. And last, the SPCA endeavors to promote and preserve the general welfare of the public communications industry.

We are fortunate to have the support of the larger inmate phone providers from across the nation; however the majority of the inmate phone providers in SPCA are the very small to medium or regional size companies. The Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues in Pending Rulemaking, DA 03-4027, poses a direct threat to put many of these companies out of business. It is for this reason I write this letter as reply comments of the SPCA in this proceeding.

No. of Copies rec'd 094  
List ABCDE

## I. Cost to provide inmate calling services

For the petitioners to imply that costs to provide inmate calling services have gone down simply shows their lack of knowledge of this industry. They are correct in the statement that transmission cost has stabilized, but that is only a small piece of the total scope. However, on average, the costs for billing, collections, validations, research and development, implementing debit or prepaid programs and administrative support have all increased significantly over the last 5 years for our member companies.

Technology had to increase to better serve law enforcement in their efforts to better protect the general public. Inmate phone providers have incurred cost to develop these tools. Any family member, witness or other person not wishing to receive calls from correctional facilities should not have to do so. Inmates that may be threatening individuals or planning additional crimes through other parties should not be allowed to do so. Escapees **are** often re-apprehended by use of tracking and recording devices provided by the increased technology of the inmate phone system. Inmates often protect themselves from other inmates by use of these features. The increased technology of recording, monitoring, ability to recognize hot words or numbers, blocking of numbers, cell phone detection, etc not only allows law enforcement to better serve the general public, inmates on site, and assist in criminal investigations it also allows them remote access via the internet to these features. This allows for a more efficient response time and increased effectiveness. The petitioners' proposal would in effect make it difficult, if not impossible, for inmate phone providers to continue to provide and serve law enforcement and the general public with this asset.

Debit or prepaid systems had to be created or updated to allow for both pay at the facility or pay in advance by the end user. This feature enhances billing and call completion options. These efforts and increase in costs to providers in this industry had to be encountered due to ever-changing telecommunications industry as a whole. Not only have the phone companies that do accept collect call billings increased their costs to the providers, but **as** you are well aware, the amount of CLEC's, VOIP companies like Vonage, Cable companies providing dial tone **as** a complete home package, and the increase use of cell phones has exploded in recent years. All these alternative local service providers refuse to bill other carriers' calls. Without the invention of the many prepaid options that our new technology provides, many inmates and their families would simply not be able to communicate. New technology now gives them the option to pay in advance by cash, check, credit card, wire transfer, etc and in most cases receive a discount for doing so. In order for law enforcement to do their job, these types of calls must also be able to be tracked, monitored, recorded and possibly blocked.

## 2. Market is taking care of itself

The Alternative Proposal seems to overlook the complexity and differences of correctional institutions and believes that "one shoe" fits all. Inmate calling and needed security and billing solutions for long term facilities, short term facilities, maximum security, minimal security, city jails, etc vary greatly. Many facilities have already begun

to accept lower ~~or~~ no commissions in order to offer lower rates. In today's bidding process, ~~often~~ the winner is the company who could offer the lowest overall ~~rate~~ structure with commission to the facility included. The petitioners indicate that a "typical" interstate call is 89 cents per minute with a surcharge of **\$3.95**. I do not find this to be the case. Many states, such ~~as~~ New York, Missouri and New Hampshire are far below that ~~mark~~. Commission are ~~as~~ much a part of this industry ~~as~~ anything. Although some facilities have chosen not ~~to~~ accept commissions, the majority use this money to fund programs that benefit the inmate as well ~~as~~ other state or local programs. At the state and county level, a portion of the commissions go to offset the expenses incurred by the facility to administer the inmate phone system. If the petitioner's requests are granted, commission would be greatly reduced or eliminated which may also result in the reduction ~~or~~ elimination of inmate phones in some facilities. Taxes would have to be levied for continuation. Rates are going down, technology is improving and the market is driving itself.

### 3. Regulation & Deregulation

In Section **276** of the Communications Act, as amended by the Telecommunications Act of **1996**, Congress required the FCC to adopt a payphone compensation plan for inmate telephone service in confinement facilities to "ensure that all payphone service providers are fairly compensated for each and every completed intrastate and interstate call using their payphone." I believe the Petitioner's proposal ~~to~~ be in direct violation of Section **276** of the Telecom Act.

The Petitioners cost estimates are misleading, and based on seven-year old data from several companies that no longer provide inmate phone service. These rate caps could undermine prison security, public safety & directly affect the budgets and programs of law enforcement officials. I do not think the Commission would want to in effect begin regulating this environment. With everything else in telecommunications being deregulated, why should inmate phone providers be singled out for regulation?


### 4. Exterminating the little guy

If the Petitioner's proposal would be adopted by the Commission, it would put most of the small to medium size inmate phone companies the SPCA represents out of business. Small companies currently have to "pinch every penny to make it ~~as~~ it is. They have to maintain the same features and services of the big companies in order to compete without the luxury of their resources. I ~~am~~ sure the Commission would want to support small to medium size businesses. This competitiveness is what drives the industry and is needed for it to continue accomplish the original intentions of deregulation. Let's not take the small to medium size inmate phone provider out ~~of~~ the equation. The Petitioner's have stated that inmate phone companies operate at an **85%** profit margin. I assure you that ~~is~~ not the ~~case~~. If that was true I'll bet that BellSouth, AT&T, MCI, Qwest, Cincinnati Bell and Verizon would not have all exited the business in the last **5** years. In my **20** plus

years in this industry, I have never known any inmate phone company to make such a **return.**

In conclusion, for the foregoing reasons, it is the position of the **SPCA** that the Commission should *reject* the *Alternative Proposal*.

Sincerely

A handwritten signature in black ink, appearing to read "David Cotton", written in a cursive style.

David Cotton

President & C.O.B.

Southern Public Communications Association

2315 Queens Road

Many Louisiana 71449

1-866-305-0836

318-256-0905 fax

[dsc@southernpublic.org](mailto:dsc@southernpublic.org)